

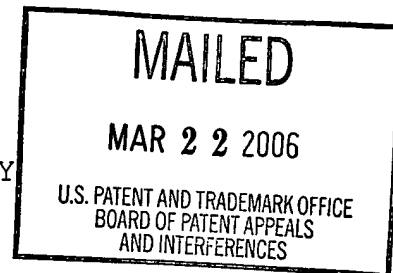
The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte: MATT CROSBY,  
DAVID C. WILKINS and WILLIAM MCCOY

Application No. 09/724,658



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on January 27, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

On October 6, 2005, an Examiner's Answer was mailed. A review of the Examiner's Answer reveals that it is not in

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compliance with the headings, specifically the identification of the References of Record and the Evidence Appendix as set forth in the new rules which went into affect September 13, 2004. Further, the statement which appears in the Examiner's Answer (p.20, lines 6-9) potentially introduces a new ground of rejection:

"Since the appeal claim 1 is presented after Final Rejection and the Examiner has indicated in the Advisory Action that the amended claim 1 is rejected over Yokomizo, the amended claim 1 and similar claims should also be rejected under 112 second paragraph".

Any new ground of rejection made by the examiner in an examiner's answer must be approved by a Technology Center (TC) Director or designee (see MPEP 1207.05). SPE Michael Razavin and Richard Hjerpe have not been authorized as a designee.

#### REQUEST TO REOPEN PROSECUTION

A Request to Reopen Prosecution with an Amendment was filed December 7, 2005, in response to the Examiner's Answer mailed October 6, 2005. There is no indication on the record, that the Request to Reopen Prosecution and Amendment was considered and/or no acknowledgment of receipt mailed. A written communication notifying appellant of the Examiner's receipt and consideration

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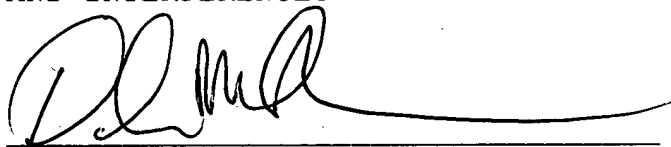
of the Request to Reopen Prosecution and Amendment is required.

Accordingly, it is

**Ordered** that the application is returned to the Examiner for

- 1) vacate the Examiner's Answer mailed October 6, 2005;
- 2) issue a revised Examiner's Answer to include all required headings as set forth in 37 CFR § 41.37;
- 3) any new ground of rejection must be approved and signed by the Technology Center Director or his designee (see MPEP 1207.05);
- 4) consideration and acknowledgment of the Request to Reopen Prosecution and Amendment filed December 7, 2005; and
- 5) for any further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

A handwritten signature in black ink, appearing to read 'D. M. Shaw', with a long horizontal flourish extending to the right.

DALE M. SHAW  
Program and Resource Administrator  
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DMS/dpv

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